



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,717	12/12/2003	William Bedingham	59071US002	2357
32692	7590	08/10/2005	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	
DATE MAILED: 08/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,717

Applicant(s)

BEDINGHAM ET AL.

Examiner

Robert R. Raevis

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-15-04; 4/1/05; 5/27/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1-22, the terms "valved" and "valve" are confusing, as the written specification and disclosure seems to describe a wall 64 in which an opening is formed by a laser, and not a valve. The term "valve" is not consistent with its regular meaning. After all, valves are reusable, and the disclosed creation of an opening in the wall 64 is not.

As to claim 1, is the "a first major side" (lines 14-15) the same as the "first" (line 6) side? Is the same side being claimed twice? (Double Inclusion)

As to claim 13, "the detection window" (lines 7-8 from bottom of the claim) lacks antecedent basis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18,20,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parthasarathy et al (US2003/0138779) in view of Kellogg et al '589.

Parthasarathy et al teach (Figures 3, 4) a process chamber 150a/ valve 172a/ valve chamber 170a arrangement to pass sample material through a rotating system, but does not position a window in chamber 150a.

Art Unit: 2856

Kellogg teaches (Figure 3E; col. 11, lines 45-65) a process to perform analysis upon a sample, including locating a sacrificial valve 213 between a process chamber 207 and read ("valve") chamber 210, and use of optical detection methods to test the material within the chamber 210 via a plastic window of the chamber.

As to claims 1-6,9-12,13-18,19-21, it would have been obvious to use Kellogg's window in Parthasarathy's process chamber 150a because Kellogg teaches that windows may be employed in chambers of process lines so that those same chambers may be employed as "read" chambers to analyze fluid passing there through.

As to claim 7, the percentage cited appears evident in Figure 4 of Parthasarathy.

As to claim 8, passage dimensions for process system are in the range of millimeters.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,8,14,16,17,20 are rejected under 35 U.S.C. 102(b) as being anticipated by Godec et al.

Godec et al teach (Figure 2) valved process chamber on a sample processing device, the valved process chamber including: process chamber 90 having a volume

Art Unit: 2856

between right and left hand external walls of "rectangular" (col. 6, line 44) housing 10, the chamber occupying an process chamber area (between right hand external wall and vertically extending mid wall), and the area having a length (height) and width; a valve chamber 60 located within the process chamber area, the valve chamber located between the process chamber volume 90 and the left hand side of the processing device, where the valve chamber is isolated from the process chamber by a septum 94 separating the valve chamber and the process chamber, and where a portion of the process chamber volume lies between the septum 94 and the right hand external wall. The chamber is typically a "test tube" (col. 8, line 17), which passes electromagnetic energy there through, permitting liquid level to be seen as it leaves the container.

As to claims 1,2,14,16,17,20, test tubes are transparent, and thus provide for a detection window. Also, the height of the apparatus 10 may be deemed to be a length, as it is a measure of length.

As to claims 3,5, the wall on the right-hand side of volume 90 may be deemed to be a major side. Also, the chamber 90 is inside the container external wall, and thus mutually exclusive.

As to claim 8, septum 94 appears to be 1 mm thickness.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2856

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godec et al.

As to claim 21, it would have been obvious to utilize Godec's apparatus to test blood because blood is typically removed from test tubes for sampling, suggestive of Godec's effective analyzer supplier as a means to pass blood in a test tube to an analyzer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert R. Raevis
RAEVIS